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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------------|------------------|
| 10/720,223 | 11/25/2003 | Giovanni Esposito | Q78546 | 4886 |
| 7590 10/06/2005 SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3202 | | | EXAMINER CIRIC, LJILJANA V | |
| | | | ART UNIT 3753 | PAPER NUMBER |
| DATE MAILED: 10/06/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/720,223

Applicant(s)

ESPOSITO ET AL.

Examiner

Ljiljana (Lil) V. Ciric

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3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>05112004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. While claim 22 appears to depend from base claim 1, the additional limitations in claim 22 fail to further limit the scope of claim 1.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 through 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

For example, it is not clear to which particular element the pronoun "its" in line 4 of claim 1 refers, thereby rendering indefinite the metes and bounds of protection sought by claim 1 and claims 2 through 22 depending therefrom.

The limitation "arranged close one to the other" [claim 1, line 6] is not clear as written and furthermore relies on the relative term "close". The term "close" in claim 1 is a relative term which

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renders the claim indefinite. The term "close" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Thus, as used to qualify the relative locations of the first and second radiators, this term renders the same indefinite.

With regard to the term "forward" [claim 3, line 3], it is not clear relative to which fixed reference element the angular shift of the first radiator occurs.

The limitation "an inner cavity belonging to a passage duct for fluid passing within the first radiator" [claim 5, lines 2-4] is not clear as written.

The limitations "provided designed" [claim 9, line 2] appear to have a word or words missing therefrom and are generally incomprehensible as written.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 9 recites the broad recitation of "said actuating means", and the claim also recites "in particular at least a gas spring" which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. As best can be understood in view of the indefiniteness of the claims, claims 1 through 4, 8, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Shin Caterpillar Mitsubishi Ltd. (JP 9-89488, made of record by applicant).

Connection mechanism 10 is readable on the hinging means as recited in the claims.

6. Alternately for claims 1 through 3, and as best can be understood in view of the indefiniteness of the claims, claims 1 through 3, 11, 18, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Case Steyr Landmaschinentechnik GmbH (EP 1 098 073 A2, made of record by applicant).

Hinges 14 and 15 are readable on the hinging means as recited in the claims.

7. Alternately and as best can be understood in view of the indefiniteness of the claims, claims 1, 2, 8, 9, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Burris et al. (made of record by applicant).

Burris et al. discloses support mechanism 104 as including a gas spring 106.

8. Alternately for claims 1 through 3, 8, 10, 11, and 18 and as best can be understood in view of the indefiniteness of the claims, claims 1 through 3, 8, 10 through 12, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Clark et al. (made of record by applicant).

Clark et al. discloses two rotatable radiators or heat exchangers 64 and 88.

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9. Alternately for claims 1 through 4, 18, and 22 and as best can be understood in view of the indefiniteness of the claims, claims 1 through 7, 17, 18, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Weizenburger et al. (made of record by applicant).

Elastic hose elements 12 are readable on the articulation arm having an inner cavity as recited in the claims.


10. The non-application of art against claims 13 through 16, 19, and 20 should not be construed that the claims contain allowable subject matter, but rather that the claims could not be examined fully on the merits due to their indefiniteness.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909. The examiner can normally be reached on Mondays through Fridays from 10:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene, can be reached at 571-272-4930.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LJILJANA CIRIC
PRIMARY EXAMINER